

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

DENNIS DIMON,  
Plaintiff

VS.

MICHAEL B. LATTI, LATTI  
ASSOCIATES, LATTI & ANDERSON  
LLP, METROPOLITAN LIFE  
INSURANCE COMPANY, KEMPER  
INSURANCE COMPANY AND  
MORGAN STANLEY DW, INC.,  
Defendants.

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

C. A. No: 05-11073 REK

RECEIVED  
CLERK'S OFFICE  
2005 SEP 26 P 3:24  
U.S. DISTRICT COURT  
DISTRICT OF MASS.

MOTION TO CONTINUE THE SCHEDULING CONFERENCE

Metropolitan Life Insurance Company ("MetLife") requests a continuance of the Scheduling Conference, which is presently scheduled for October 5, 2005, at 2:00 p.m. MetLife has made no other requests to continue this Scheduling Conference. MetLife requests the Court reschedule the Scheduling Conference for a date after November 7, 2005, on the basis that it was not properly notified of the Scheduling Conference due to a filing mishap at the Court Clerk's office.

As grounds for this Motion, MetLife states that its Answer was filed on August 8, 2005, but not docketed until September 13, 2005. As a result, MetLife has yet to receive the Notice from the Court of the Scheduling Conference and only discovered that the date was not set when it received a letter from opposing counsel. By the time MetLife's

counsel was aware of the Scheduling Conference some of the L.R.16.1 deadlines already had passed.

It should be noted that counsel for the following parties do not oppose allowing the Motion to Continue: Michael Latti, Latti Associates, Latti and Anderson, LLP, and Kemper Insurance Company.

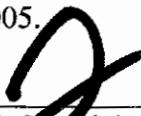
METROPOLITAN LIFE INSURANCE COMPANY

By Its Authorized Representative,

  
James J. Ciapciak (BBO # 552328)  
CIAPCIAK & ASSOCIATES, P.C.  
99 Access Road  
Norwood, MA 02062  
Tel: (781) 255-7401  
Fax: (781) 255-7402

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing document was served upon Counsel of Record on September 23, 2005.

  
James J. Ciapciak

**LOCAL RULE 7.1 CERTIFICATE OF CONSULTATION**

I hereby certify that on September 21, 2004, we conferred with opposing counsel in an attempt to narrow the issues presented by this Motion. See attached letter to counsel dated September 21, 2005.

  
James J. Ciapciak

**CIAPCIAK**  
**&**  
**ASSOCIATES, P.C.**

ATTORNEYS AT LAW

99 Access Road  
 Norwood, MA 02062  
 Tel (781) 255-7401  
 Fax (781) 255-7402

BOSTON, MA OFFICE  
 (617) 951-2727

RHODE ISLAND OFFICE  
 (401) 996-7401

September 21, 2005

**VIA FACSIMILE**

J. Owen Todd, Esquire  
 John E. DeWick, Esquire  
 Todd & Weld, LLP  
 28 State Street, 31<sup>st</sup> Floor  
 Boston, MA 02109

Timothy J. Driscoll, Esquire  
 Drinker Biddle & Reath, LLP  
 One Logan Square  
 18<sup>th</sup> and Cherry Streets  
 Philadelphia, PA 19103

Sandra Sue McQuay, Esquire  
 Andrea C. Kramer, Esquire  
 Sullivan, Weinstein & McQuay LLP  
 2 Park Plaza, Suite 610  
 Boston, MA 02116

Matthew C. Welnicki, Esquire  
 Kevin S. Murphy, Esquire  
 Yurko & Perry, P.C.  
 One Washington Mall, 11<sup>th</sup> Floor  
 Boston, MA 02108

David B. Kaplan, Esquire  
 The Kaplan/Bond Group  
 88 Black Falcon Avenue  
 Suite 301  
 Boston, MA 02210

**Re: Dennis Dimon v. Michael B. Latti, Latti Associates, Latti & Anderson LLP, Metropolitan Life Insurance Co., Kemper Insurance and Morgan Stanley DW, Inc.**  
**USDC Dist. Mass.**  
**Civil Action No: 05 11073 REK**

Dear Counselors:

Due to a filing mishap at the Court Clerk's offices, MetLife's Answer, which was filed and served on each of you by mail on August 8, 2005, was not docketed until September 13, 2005. Consequently, we did not receive official notice of the October 5, 2005, Scheduling Conference. We were not aware of this Conference until we received Mr. Kaplan's September 9, 2005 letter late last week.

Pursuant to Local Rule 16.1, we were to confer 30 days prior to the Conference regarding preparation of an agenda for the Scheduling Conference, a proposed PreTrial schedule including discovery plan and consideration of whether we will consent to trial by a magistrate judge.

In light of our not having received the Scheduling Order until today, we propose that all parties assent to a Joint Motion to Continue the Scheduling Conference. If all parties assent, we will prepare and file a Joint Motion to Continue the Scheduling Conference. The Joint Motion will propose that the Conference be rescheduled to a date on or after November 7, 2005. Please advise as soon as you are able if you agree to our filing this Joint Motion.

Very truly yours,



James J. Ciapciak